

Exempting peace officers, sex crime victims from polygraph tests
(HB 1701 by Hinojosa/Zaffirini)

DIGEST: HB 1701 would have prohibited the firing or disciplining of a peace officer or a Texas Department of Corrections (TDC) employee who refused to take a polygraph test. It also would have forbidden peace officers or district attorneys from requiring sex crime victims to take a polygraph test.

GOVERNOR'S
REASON
FOR VETO:

The provisions of the bill prohibiting the disciplining of a peace officer or TDC employee who refuses to submit to a polygraph examination are too broad. Under the Ruiz litigation, the state has agreed to use polygraph tests in investigations of assault within the Texas Department of Corrections. Since use of a polygraph in these circumstances is not discretionary, the bill would contravene the state's obligations under Ruiz.

RESPONSE:

Rep. Juan Hinojosa, the author of HB 1701, was quoted as saying that the governor received bad advice from Rider Scott (the governor's general counsel for the criminal justice division) and Knox Fitzpatrick (deputy general counsel), who "are still living in the caveman era."

A spokesman for Sen. Judith Zaffirini, who sponsored HB 1701 in the Senate, said that the governor's veto was a disappointment. The governor did not oppose the original bill's provision forbidding officials to require sex crime victims to take a polygraph; the veto was aimed at a Senate amendment that would have protected Department of Corrections employees and peace officers from discharge or discipline for refusing to submit to a polygraph test. Sen. Zaffirini was unaware that the amendment was unacceptable to the governor, the spokesman said.

NOTES:

HB 1701 passed the House on the Consent Calendar and was not analyzed in a Daily Floor Report. The bill originally dealt only with polygraph tests for victims of sex crimes. The Senate added the provision that would prevent the firing or disciplining of any peace officer or employee of TDC who refused to submit to a polygraph test. The text of this provision is the same as that of SB 190 by Lyon, which passed the Senate but died in the House Calendars Committee.